

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

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In Re:

RONALD D. ALBERS

Bky Case No 04-60733 DDO  
Chapter 13

Debtor(s)

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OBJECTION TO CONFIRMATION OF PLAN

TO: All parties in interest under Local Rule 9013-3.

1. I, Michael J. Farrell, am the standing trustee assigned to the above-mentioned case.
2. A confirmation hearing has been set for 10:00 a.m. on August 24, 2004 in Courtroom No. 2, 205 Post Office Building, 118 South Mill Street, Fergus Falls, Minnesota.
3. Any response to this motion must be filed and delivered not later than 10:00 a.m. on August 19, 2004, which is three days before the time set for the hearing (excluding Saturdays, Sundays, and holidays), or filed and served by mail not later than August 13, 2004, which is seven days prior to the hearing (excluding Saturdays, Sundays, and holidays). UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.
4. The Court has jurisdiction pursuant to 28 U.S.C. §§ 157 and 1334, Fed. R. Bankr. P. 5005 and Local Rule 1070-1. This proceeding is a core proceeding. The petition commencing this Chapter 13 case was filed on June 18, 2004. This case is now pending in this Court.
5. This motion arises under 11 U.S.C. § 1322 and 1325 and Bankruptcy Rule 3015. This motion is filed under Bankruptcy Rule 9014 and Local Rules 3015-3, 9006-1, 9013-1 through 9013-5, and such other Local Rules as may apply. Movant requests relief with respect to denial of confirmation of the debtors' proposed Chapter 13 Plan filed on April 12, 2004 (the "Plan").

6. The following property was not claimed as exempt on the debtor's Schedule C:  
Cat 215C excavator Value \$5500.00 Claimed Exemption \$2350 Equity \$3150  
Wages earned but not paid Value \$500 Claimed Exemption \$0 Equity \$500  
Also, the Debtor have claimed \$3290 under d(5). The limit is \$2925, which would create \$365 in additional non-exempt assets.

TOTAL NONEXEMPT ASSETS \$4015

7. The proposed Chapter 13 plan calls for payments of \$310 per month for 36 months, for a total of \$11,160. After payment of debtor's attorney fees (\$1250) and home mortgage default (\$7000), the balance of the funds, less the Trustee's fee (estimated at 10%), in the sum of \$1750, would be paid to the debtor's non-priority unsecured creditors, whose claims total approximately \$2214. In this case, the Plan should pay 100% of the allowed claims.

8. The Plan does not meet the "best interests of creditors" test of 11 U.S.C. § 1325(a)(4), in that the value, as of the effective date of the plan, of property to be distributed under the plan on account of each allowed unsecured claim is less than the amount that would be paid on such claim if the estate of the debtor was liquidated under Chapter 7 of Title 11 on such date.

9. The Plan has not been filed in good faith.

Therefore, the trustee requests that the proposed plan be denied and any other action the court deems fit.

Dated August 4, 2004

/s/ Michael J. Farrell

Michael J. Farrell, Trustee  
Box 519  
Barnesville, MN 56514  
(218) 354-7356

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The undersigned, being an employee of the standing Chapter 13 Trustee, declares that on the date indicated below, I served the following:

Notice of Trustee's Objection to Confirmation of Plan  
and Unsworn Declaration of Proof of Service

Upon each of the entities named below, by mail (unless otherwise indicated below) by mailing to each of them a copy thereof by enclosing same in an envelope with first class mail postage prepaid, and depositing same in the post office at Barnesville, Minnesota, addressed to each of them as follows:

**Debtor(s):**

RONALD D. ALBERS  
29933 CLEAR LAKE RD.  
ALBANY, MN 56307

**Debtor's Attorney:**

SAMUEL V. CALVERT  
PO BOX 1044  
ST. CLOUD, MN 56302-1044

**Additional Copy(s) addressed to:**

MATRIX FINANCIAL SERVICES CORPORATION  
PO BOX 829009  
DALLAS, TX 75382-9009

UNITED STATES TRUSTEE  
1015 U.S. COURTHOUSE  
300 W. 4<sup>TH</sup> ST.  
MINNEAPOLIS, MN 55415

And I declare, under penalty of perjury, that the foregoing is true and correct.

Dated: August 4, 2004

/s/ Belinda D. Kurtz  
Belinda D. Kurtz  
Chapter 13 Office

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This matter came before the Court on August 24, 2004 at 10:00 a.m., or as soon thereafter as could be heard on Confirmation of Debtor's Chapter 13 Plan. The appearances are as noted on the record. The court made its findings and conclusion on the record. Based on the Local and Federal Rules of Bankruptcy Procedure, it is

HEREBY ORDERED:

Confirmation of Debtor's Chapter 13 Plan is DENIED.

Dated: \_\_\_\_\_

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Dennis D. O'Brien  
U.S. Bankruptcy Judge